

SALMON v. CLAGETT. *

INJUNCTIONS.—LAW AND PRACTICE OF.—MODES OF DEFENCE BY DEMURRER, PLEA, OR ANSWER.—HOW AN INJUNCTION MAY BE OBTAINED AND HOW DISSOLVED.—LIABILITY OF A PARTY OBTAINING ASSETS FROM A TRUSTEE.—DISCHARGE OF A SURETY BY ACT OF CREDITOR.—FORECLOSURE OF A MORTGAGE PAYABLE IN INSTALMENTS.

A single interrogatory propounded by the defendant to the plaintiff answered by the monosyllable, "yes."

A motion to dissolve the injunction and exceptions to the answer may be taken up together and determined at the same time. (a)

It is necessary in all doubtful cases to advert to the reason of the law.

The modes of defence by demurrer, by plea, by answer as called for by the bill, by answer in avoidance, and by matter derived from the whole case as shewn at the hearing considered and explained.

The demurrer takes the facts stated in the bill for true, and answers by averring that they constitute no ground for relief. (b)

A plea usually admits or supposes all that is set forth in the bill to be true, but states other facts which produce an equity which displaces that arising from the facts stated in the bill.

A plea demands the judgment of the Court in the first instance whether the special matter urged by it does not debar the plaintiff from his right to the answer required by the bill.

A plea or demurrer only supposes the facts to be true, but does not admit them like an answer.

A defendant who has omitted to answer, or answers evasively any substantial part of the bill, asks with ill grace for a dissolution of the injunction. (c)

Matter in avoidance denied by the replication must be proved. (d)

A defendant who has omitted, or failed by demurrer or plea to protect himself from making the discovery called for, must answer fully as the bill requires.

The modern cases allowing an answer in avoidance to subserve the purposes of a plea overruled.

The difference between the combination of facts which gives rise to the equity upon which the injunction rests, and that which gives rise to the equity upon which the plaintiff asks relief.

How an injunction may be obtained; and how it may be dissolved on bill and answer.

* Affirmed in 5 G. & J. 314.

(a) See note (e) *infra*.

(b) Cited in *Rider v. Gray*, 10 Md. 299.

(c) Cited in *Hamilton v. Whitridge*, 11 Md. 144; *Keighler v. Savage Co.* 12 Md. 413; *West v. Williams*, 1 Md. Ch. 360. See Equity Rule, 23; *Hopkins v. Stump*, 2 H. & J. 301, as to the rule that a defendant submitting to answer must answer fully.

(d) Cited in *Cecil v. Cecil*, 19 Md. 82.